

**'STATE OF INDIGENOUS PEOPLE'S RIGHTS
IN BANGLADESH**

**AN ANALYSIS OF BUREAUCRATIC AND
POLITICAL SENSITIVITY**


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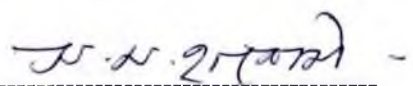
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ABSTRACT

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Chapter 1

Introduction

1.1 Research Title: State of indigenous people's rights in Bangladesh: an analysis of bureaucratic and political sensitivity

1.2 Research Objectives:

To analyze the sensitivity in bureaucracy and politics to ensuring the rights of indigenous people in Bangladesh through the legal and official documents ratified human rights instruments, government initiatives and interventions, human rights situation, media reports and interviews of indigenous people.

1.3 Research Statement:

For lack of sensitivity in bureaucracy and politics it is not possible to ensuring Economic, social, cultural, civil and political rights of the indigenous people in Bangladesh.

1.4 Rationale of the Study:

In the era of globalization, the traditional concept of society, ethnicity, heritage, culture has been modified over time. Simultaneously the issue of human rights got much attention in the recent governance system of Bangladesh as well as around the world. The rights issues got emphasis among the international instrument of human rights. No doubt that in many cases among the member states of the United Nations are practicing those instruments to ensure the rights of their citizens. Although there are numbers of human rights violation cases we see around the world. In these circumstances the issues of indigenous people's rights revealed international attention from various aspects especially on the human rights and development paradigm. Diverse ethnic communities are losing their own identity, culture, language, livelihood, assets and over all they becoming vulnerable and marginalized day by day. Some are becoming extinct as a whole. In Bangladesh, there were 45 identified ethnic communities¹ existing century after century. Their identity and rights are frequently violated in every tier of the society but generally the state stays silent. Rather we have seen in the past that, the state also became the actor of human rights violator. Indigenous people don't have access in the participation and inclusion in the development planning, governance system or any other state mechanism without few exceptions. Sometimes, apparently it was seen that some initiatives have been taken in favor of them. But many questions have been raised whether these really helped to add value to their life or not. On the other hand, despite ratifying several international instruments of human rights, Bangladesh government does not take any mentionable affirmative action to ensure the rights of indigenous communities. So it may also raise a question whether the different

¹ 'Solidarity' 2006, an annual publication of Bangladesh Adibashi Forum (BAF), page 88

governments are sensitized enough towards them or not. The leaders of the indigenous community are frequently claiming that no government is sensitizing to ensure their rights. Rather it is patronizing to make them extinct from Bangladesh. So it is necessary to point out and measure the level of sensitization in the political process and bureaucracy towards indigenous communities.

1.5 Background of the study:

In Bangladesh there are about 45 recognized different indigenous communities living in the plain lands and Chittagong Hill Tracts (CHT). Indigenous people are commonly known as '*Adibashi*'. According to the last government census of 1991 indigenous people constitute roughly 1.2 percent of the total population of Bangladesh. Although *adibashi* leaders are demanding that the number of both plain land & hill tracts indigenous people could be more than 2 percent of the total population. The Bangladesh *Adibashi* Forum (BAF) demanded the present population of *adibashi* people is approximately 25 lakhs.¹ *Adibashi* leader and writer Mr. Mangal Kumar Chakma said, "indigenous people think that their actual number of population is more than the government census. It is intentional that the government census shows less than their actual population"².

They belong to six linguistic categories and were originally people of the hills, mountains and forests, mainly living in their ancestral lands in rural areas. The attitude of the Bengalis towards the indigenous people is not so positive. Forest lands that provide a means for earning their living are now being occupied by the influential Bengalis. In the name of rubber plantation, social afforestation, agro-forestry, fruits & vegetable cultivation's, building eco-parks, ecotourism, agro-industries etc., their land and properties are being grabbed by Bengali Muslim land grabbers and pirates, and thereby the indigenous people are made destitute. They are refused basic survival requirements in both rural and urban areas.³ In the modern society sometimes indigenous people are excluded from the mainstream community. Still they are not allowed to have food, take tea, breakfast or use the common cookeries in hotels and restaurants⁴. The Bengali by making false and fabricated documents in connection with the land related and law enforcing agencies easily evict indigenous people from their ancestral land. They face discriminations from all quarters because they are indigenous people and minorities in Bangladesh. Courts, police, administration, local govt. representatives, land officials, service sectors all are biased against them. Usually the indigenous people do not dare to lodge complaints

¹ "Iul" Publication of 153rd anniversary of Santal Rebel day, June 30, 2008

² Mangal Kumar Chakma, 'The state of *adibashi* in the Bangladesh nation state', *Adibashi Janapoder Pothe Prantary*, edited by Joyento Achjee, page 12

³ "Rights of Indigenous peoples and Minority in Bangladesh", Article of Muhammad Kamal Uddin, EID ARBAN, Dhaka,

⁴ Daily Janakantha 25 May 2008, front page

about atrocities, oppressions and abuses done to them by the Muslims because of fear and facing human rights violation further. If they protest against oppressions and lodge cases in the courts they have to pay for their lives and they are forced to leave Bangladesh. The daily newspapers are carrying news items of such inhuman incidents on the minorities and indigenous people. In the face of brutalities of the muscle men, oppressions by the police, military, para-military personnel and non-cooperation from the judiciary and administrative systems, hundreds of thousands of indigenous people and other minorities are compelled to leave Bangladesh. On the other hand the government of Bangladesh hereafter GoB does not recognize the existence of the indigenous people in Bangladesh.⁵ But GoB has signed many international instruments of human rights as well as especially the rights of the indigenous people⁶. But violations of indigenous people's rights are increasing day by day. Many political parties commit to address the issue before election but after getting power mostly they are ignored. Presently the army backed caretaker government is in power. They have no particular political identity and they took some initiatives towards the indigenous people but they are also not out of the allegation at all. Therefore this study focused on particularly last three years of BNP-Jamat led elected government and one and half years of the present caretaker government-ruling period. But based upon the necessity of analysis it may use references from any period.

1.6 Specific research Objectives:

The main objectives of the study is to analyze the constitutional rights of the indigenous people in Bangladesh as well the major international human rights documents ratified by Governments of Bangladesh. Simultaneously this study will be analyzed how sensitize the political leaders and bureaucrats in Bangladesh towards ensuring the rights of the indigenous people through study and analyzed different human rights conventions, official documents, media report and interviews.

1.7 Methodology:

It has been reviewed the relevant literature on this issue such as government official documents, laws and acts, government circular, published articles, formal study, presented key note paper on different seminar or workshop etc. Then analyzed the relevant international human rights instruments such as UDHR, ICESCR, ICCPR,

⁵ Bangladesh's representative in UN, Israt Jahan Ahmed gave the following statement....."her delegation supported the rights of any group that was disadvantaged. Bangladesh adhered to all major international human rights instruments and supported the rights of indigenous peoples. However, the Declaration, in its present form, contained some ambiguities particularly that 'indigenous peoples' had not been identified or explicitly defined any way. Further, the text did not enjoy consensus among member state under such circumstances, Bangladesh had abstained in the vote". <http://www.un.org/News/Press/docs/2007/ga10612.doc.htm>

⁶ GoB has ratified the convention of ILO-107 on 10th September 1972. The convention is completely mentioned the recognition of the right, customary laws, ancestral land ownership, and culture of the indigenous communities. GoB also signed up the UDHR, ICCPR, ICESCR, CRC

ILO-107, ILO-169, Constitution of Bangladesh, UN declaration on indigenous people etc. It has also been analyzed the published reports about indigenous peoples right violations and claiming their demands in the national newspapers from January 2004 to August 2008. Finally it has taken interviews of some selected activist of the indigenous community. In this study had been considered the secondary data source like study report, published articles, relevant laws, conventions, covenants, government documents etc. On the other hand, it also been used the primary data sources such as newspapers report, interviews etc. This study also emphasis on the qualitative analysis to prove the arguments although it has been analysed and used some rationale quantitative information in different specific cases. In the recent time, the newspaper reports also considered as the primary data source around the world. The newspapers reports reflect the situations directly. In the same time, the relevant study on this issue also been considered as the important data source and absolutely these are helps to prove the argument specifically. Finally the interview of the activist also gave direct data and opinions regarding the issue. In this study it has been analyzed the reasons of not ensuring the internally recognized rights of the indigenous peoples as well.

Chapter 2

2.1 Indigenous People

There is no international agreement on the definition of 'indigenous people'. In the anthropological perspective there are many definitions of the indigenous peoples around the world. However United Nations human rights bodies and international laws apply 4 criteria to distinguish indigenous people:

- Indigenous people usually live within (or maintain attachments to) geographically distinct ancestral territories
- They tend to maintain distinct social, economic and political institutions within their territories
- They typically aspire to remain distinct culturally, geographically and institutionally rather than assimilate fully into national society and
- They self-identify as indigenous or tribal.

Despite common characteristics, there does not exist any single accepted definition of indigenous people that captures their diversity as peoples. Self-identification as indigenous or tribal is usually regarded as fundamental criterion for determining whether the groups are indigenous or tribal, sometimes in combination with other variables such as "language spoken" and "geographical location or concentration".⁷

2.2 Elements of indigenous peoples includes:⁸

- Traditional life styles
- Culture and way of life different from the other segments of the national population, e.g. in their ways of making a living, language, customs etc
- Own social organization and political institutions living in historical continuity in a certain area, or before others invaded or came to the area.

In Bangladesh frequently using the term '*adibashi*' for those who have settled in some areas of Bangladesh as first inhabitants or early settlers which is very similar to the meaning of "*adibashi*" and anthropological "Indigenous" term.

Adibashies are being discussed through different jargons. One is for example, 'ethnic community' which from global context focuses on socio-cultural concept related to the group's social and geographical position, embedded in the different knowledge which, through discursive and other practices, construct these communities as subjects, objects, agents, and victims. The mainstream people often refer to the

⁷ ILO convention 107, WWW.ilo.org

⁸ ILO, UN Permanent Forum on Indigenous people, International Working Group for Indigenous Association mentioned their many documents that elements

Adibashi as “Pahari”, “Janglee” or “Upazati”. In many of the official documents of Bangladesh, indigenous people are documented as “Tribal”, however, in some laws they have been documented as “indigenous” for example, Act 12 of 1995 and rules 6, 34, 45 & 50 of the CHT regulation 1900. Another word is “Aboriginal” which is also used in government documents such as in Section 97, East Bengal State Acquisition and Tenancy Act, 1950. Very recently, the ministry of foreign affairs through a letter instructed to the Ministry of CHT to use the word “Upazati (Tribals)” in place of *Adibashi* as stated by “The Daily Amar Desh” on 13th May 2006. In the PRSP documents⁹, government has recognized them as “ethnic minorities”. Despite having different terminologies, this document will use the word “*Adibashi*” to address the primary program participants of the project, because, this word is very common and popular in Bangladesh to all *Adibashies* as well as to the mainstream.

2.3 Indigenous peoples of Bangladesh

In Bangla indigenous people are commonly known as ‘*Adibashi*’ (original inhabitant). In Bangladesh there are about 49 different indigenous communities living in the plain lands and hill areas. The Indigenous People’s Forum recognized 45 groups¹⁰ among them till date. Since there were no ethnographical survey of the indigenous people of Bangladesh, it is very difficult to present an accurate count of their number. Indigenous people constitute roughly 2 percent of the total population of Bangladesh. They exist and live in almost 23 districts of Bangladesh.

Historically and traditionally indigenous people have a love and respect for nature. They believe in the world of ‘spirits’ that exercise control over nature and their lives. Their original animism pervades their thoughts and feelings. Religion is not a personal phenomenon for them. They generally express their religious feelings in a communal way rather than an individual way. These religious practices intensify social solidarity through the feeling of belonging to a specific cultural group. There is a deep interrelation between their religious belief and their social structure. The communal spirit is strong and according to their law and custom all land is the property of community. Public ceremonies celebrations and rites for the occasions of birth, marriage, death etc. Reinforce their solidarity.¹¹

2.4 Discrimination against indigenous people:

Generally the mainstream Bengali society thinks that the indigenous people’s religion and culture are inferior. The indigenous population of Bangladesh forms a

⁹ Unlocking the Potentials, PRSP document ..

¹⁰ Solidarity 2006 and 2007, an annual publication of Bangladesh Indigenous peoples Forum

¹¹ Rights of Indigenous Peoples and Minority of Bangladesh, Article presented by Muhammad Kamal Uddin, EID, ARBAN, Dhaka

marginalized and exploited minority who principally live isolated in pockets in different parts of the country. In the social development inclusion framework the *adibashi* people of the country are not effectively included as development actors-whether as contributors or as beneficiaries. Present practices and political environment among the politicians and parties has meant that there has been very little participation of the government and other development partners in the development activities directed towards these communities. Lack of constitutional recognition, the pressure of Bengali population expansion and unfamiliarity in dealing with state mechanisms has, for many, led to a progressive erosion of their economic status and cultural identity.

Some unfriendly projects also have been taken in different regime that made them more vulnerable too. Often they are refused basic survival requirements in rural and urban areas. Sometimes the poor indigenous people are not allowed to have food, take tea, breakfast etc. in the hotels and restaurants.

On the other hand the Govt. of Bangladesh does not recognize the existence of indigenous and minority people in Bangladesh. The Govt. often says, "In Bangladesh, nobody is minority and nobody is majority, all are equal".¹² But unfortunately GOB adopted policies to discriminate, exclude, disintegrate and dispossess the minority and indigenous people. The change in the constitution of Bangladesh of 1972 through 5th & 8th amendments curtailed the rights of the indigenous and minority people. These changes made them second-class citizens, disregarded and violated all international documents, covenants, treatise and treaties of the UN and other international organisations where Bangladesh is a signatory.

¹² Rights of Indigenous Peoples and Minority of Bangladesh, Muhammad Kamal Uddin, IED ARBAN, Dhaka

Chapter 3

International Human Rights Instruments related to the Indigenous People

Constitution of Bangladesh ensures the rights of the all citizens clearly. In spite of constitution, Bangladesh has ratified some strong international human rights instruments such as the Universal Declaration of Human Right (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic social and Cultural rights (ICESCR), International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), Convention Elimination of all forms of Discrimination Against Women (CEDAW), Child Rights Convention (CRC) and ILO 107 to declare and ensure more the rights of its citizens. Through these instruments the rights of the indigenous people focused along with the constitution in the existing pattern. As the party of these instruments the government of Bangladesh is obliged to ensure the rights of the indigenous people proactively.

3.1 UDHR

As the party of Universal Declaration of Human Rights government have to address equal treatment and ensure human rights for all citizens. This declaration ensured the principle rights for any human being. In Bangladesh the indigenous people are not out of this. But despite of ratification of the UDHR the government frequently violated the human rights of the indigenous people. Sometimes government itself became actor of violator.

3.2 ICESCR

As the party of International Covenant on Economic social and Cultural rights (hereafter ESCR) how any government can address the issue for the Indigenous people?. To realise the mater we can analyse the report of United Nation Office of High Commission of Human Rights (OHCHR);

“This instrument was adopted at the same time as the International Covenant on Civil and Political Rights (1966) to emphasize the equal status of the various categories of rights. In practice, many governments don’t regard economic, social and cultural rights as human rights. Some governments tend to consider these issues in terms of policy-making and programmes rather than rights. The result is that governments decide when they want to act and what level of resources they are prepared to allocate to these matters. But this approach perpetuates the practice of providing hand-outs to disadvantaged groups rather than ensuring entitlements based on recognized international human rights standards. Because governments have agreed to recognize the economic, social and cultural rights contained in this Covenant as human rights, it is important for indigenous peoples, and others who

are concerned about their rights in this area, to pressure governments to adhere to their obligations".¹³

The ICESCR also includes a non-discrimination clause (in Article 2[2]) guaranteeing that rights will be exercised without discrimination of any kind. This non-discrimination provision must be applied immediately, not over a period of time. Articles of particular rights to indigenous peoples include:¹⁴

Articles 6 and 7: the right to work, including the opportunity to gain a living through work freely chosen or accepted, as well as the right of everyone to the enjoyment of just and favorable conditions of work

Article 11: the right to adequate standards of living, including adequate food, clothing, housing and the continued improvement of living conditions

Article 12: the right to the highest attainable standard of physical and mental health and the obligation of governments to reduce infant mortality and promote the healthy development of the child

Article 13: the right of everyone to education

Article 14: the right to primary education, which is compulsory and free for all

Article 15: the right of everyone to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author.

3.3 ICCPR

Complaints under the International Covenant on Civil and Political Rights and the first Optional Protocol

The Human Rights Committee monitors the implementation of the ICCPR, which provides for specific civil and political rights. The first Optional Protocol and the Human Rights Committee's rules of procedure outline the steps involved in making a complaint about a violation under this Covenant. Article 1 of the first Optional Protocol limits the right to submit complaints to individuals. This prevents indigenous people from complaining about violations of their *collective* rights.

¹³ Report of ESCR, www.unhchr.ch website

¹⁴ To clarify the meaning of some of these rights, the Committee has adopted what are known as General Comments, which can be found in the Treaty Body Database of the OHCHR the web site (www.unhchr.ch). These General Comments can help indigenous peoples formulate their concerns in the context of the Covenant. The Committee has adopted General Comments on, among other issues, the right to housing and forced evictions (General Comments Nos. 4 and 7), the right to an adequate standard of living, in particular the right to food (General Comment No. 12), the right to education, including primary education (General Comments Nos. 11 and 13), and the right to health (General Comment No. 14). (indigenous vs international treaty

Before preparing a complaint, you should examine the rights set out in the Covenant. The following Articles from the ICCPR are of particular relevance to indigenous peoples:

Article 1: the right of self-determination for all peoples, including the right to determine one's political status and economic, social and cultural development

Article 6: the right to life

Article 7: the right to be free from torture or cruel, inhuman or degrading treatment or punishment

Article 9: the right to liberty and security of person and freedom from arbitrary arrest or detention

Article 10: the right of all persons deprived of their liberty to be treated with humanity and respect

Article 14: the right to be equal before the courts, including the right to a fair and public hearing and the right to free legal aid and assistance of an interpreter

Article 18: the right to freedom of thought, conscience and religion

Article 24: the right of every child to protective measures as required for minors

Article 27: the right of ethnic, religious or linguistic minorities to enjoy their own culture, profess and practice their own religion and to use their own language (The Human Rights Committee has decided that indigenous peoples are covered by this article, even though they may not necessarily be a true "minority" of a population.)

3.4 ILO Convention -107

ILO was the first international body to address indigenous issues in a comprehensive manner. It has been working to protect and promote the rights of indigenous and tribal people since the early 1920s. ILO's activities in the area of indigenous and tribal people fall within two main areas of activity: the promotion and supervision of the two Conventions relating to indigenous and tribal people; and technical assistance programmes to improve indigenous and tribal people's social and economic conditions. Bangladesh government has been ratifying this convention since September 1972. But still it has not ratified convention 169 that is the modified form of convention ILO-107¹⁵.

15

The standards contained in ILO Convention No. 169 establish a basic framework for the protection of indigenous and tribal peoples under international law. Many international organizations, such as the United Nations Development Programme (UNDP) and The World Bank, refer to Convention No. 169 when developing their own policies or programmes affecting indigenous peoples. While ILO Convention No. 169 establishes the basic rights of indigenous and tribal peoples, in many respects, it sets out fundamental obligations, allowing each ratifying State to determine what specific measures it will take and, in keeping with the language of other ILO Conventions, setting minimum international standards. Many of the provisions in the Convention are qualified by terms such as "as appropriate", "as necessary", "wherever practicable" or "to the extent possible". These

3.5 Setting standards for the rights of indigenous and tribal people

ILO is responsible for the only two international instruments relating exclusively to indigenous and tribal people:

a. Indigenous and Tribal Populations Convention, 1957 (No. 107) b. Indigenous and Tribal Peoples Convention, 1989 (No. 169). 14 Member States have ratified Convention No. 169, and it is under active consideration in a number of other countries. These two Conventions establish minimum standards with respect to the civil, political, social and economic rights of indigenous and tribal people. They create binding obligations on the Member States that have ratified them.

ILO Convention No.107, adopted in 1957, was the first comprehensive international instrument setting forth the rights of indigenous and tribal populations and the obligations of ratifying States toward them. While Convention No. 107 broke new ground, it used patronizing language, referring in its Article 1(1)(a) to these populations as “less advanced” and promoting assimilations approach. By the 1980s, the United Nations had completed the study by Martinez Cobo (see Leaflet No. 2 on “Indigenous People, the UN and Human Rights”) and the Working Group on Indigenous Populations had been established to provide a forum for indigenous people to express their views. In the years following its adoption, the limitations of Convention No. 107 became evident and indigenous groups themselves began to call for new international standards.

3.6 Obligation of the State

Since the state is the primary duty bearer for protecting and realising human rights, it has certain obligations that it must fulfil. These obligations of the state have come to be identified as the obligations to respect, protect and fulfil¹⁶

Obligation to respect: State must abstain from carrying out or tolerating any violation of the right in question by agents of the state

Obligation to protect: State must prevent the violation of the right by other individuals and non-state actors

Obligation to fulfill: State must provide the resources and services necessary for individuals to enjoy their rights. This incorporates the obligation to facilitate 9 state must be proactive in strengthening people’s access to the rights and obligation to provide (state must fulfill the rights directly whenever an individual or group is unable for reasons beyond their control, to enjoy the rights).

CPR are seen as negative rights (freedom from), concentrated with preventing state interference in a citizen’s life, ESCR are viewed as positive freedom (right to), involving affirmative action on the part of the state.

terms give the Convention flexibility, although some critics say that they may also have the effect of limiting or making vague the obligations of ratifying governments.

¹⁶ Right to Development A Primer, Centre for Development and Human Rights, page 92,93

The right to food, education and health each require the state to meet what the ESCR calls in GC3 'Core obligation'. These require state parties to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the ICESCR. Violation occurs through the direct action of the State is act of commission and also the failure to take step that are required by the ESCR (act of omission).

3.7 Normative framework

Explicit recognition of the international human rights normative framework

The international human rights normative framework provides norms and standards that empower the poor. A human rights approach to poverty will include an explicit recognition of that framework. Special attention will be given to those treaties that a State has ratified for two reasons: treaty ratification represents "country ownership" of the relevant provisions; and second, a ratified treaty is legally binding on all branches of Government. Careful attention will also be given to the commitments entered into during the recent world conferences, so far as they bear upon international human rights.¹⁷

3.8 Progressive Realization of Human rights

In the context of international human rights, progressive realization requires the use of human rights indicators and benchmarks. Briefly, a bundle of disaggregated indicators will be identified for each human right that is subject to progressive realization. Realistic time-bound national benchmarks (Or target) will be set in relation to each indicator; consistent with their right to participate, the poor should participate in the identification of these benchmarks. Importantly, progressive realization of human rights and poverty reduction strategies demands effective monitoring by way of indicators and national benchmarks. Furthermore, indicators and benchmarks are an essential precondition for another vital feature of a human rights approach to poverty reduction: effective accountability.¹⁸

¹⁷ ILO Leaflet on Normative Framework, WWW.ilo.org

¹⁸ Indigenous people human rights and poverty, Jon Carino, paper presented in Madrid, seminar on MDG and Indigenous people October 2004

Chapter 4

Analysis of sensitivity towards indigenous peoples

Generally sensitivity depends on the person's satisfaction, feelings, and perception. But when some incidents happen frequently and repeatedly that are violating the rights and when the duty bearer become actor of rights violators institutionally then it gives us some sort of indications of sensitisation. Any scattered, sudden, incidental issue cannot be proving the level of sensitisation, but the repeatedly consisting incidents and subsequent steps against to ensure the rights that has serious and long run negative impacts will clearly point out the level of sensitisations. In view of nationalism and identity of the indigenous people, it has long historical background in Bangladesh. Although this study is mainly focused on the recent context but some relevant historical aspects have been mentioned as references. By analysing relevant literature, study, documents, published reports in the newspapers and interviews, some specific points have found in favour of my argument such as;

4.1 Government does not recognize the existence of indigenous people

In the constitution of Bangladesh, there is not clearly mentioned anything about the indigenous people so far. Although they have their own distinct culture, heritage, social custom, social organisation, own language, rituals, norms and beliefs. And they are living in Bangladesh from couple of century ago. Simultaneously they are comparatively less privileged than the mainstream community in the social, economic and political aspects. As the distinct ethnic identity they have, so their identity of nationalism is in question. In the first constitution on 1972, article 6(2) all citizens of Bangladesh are treated as Bangali and that is amended in Bangladeshi on the subsequent regime. After our independence, Mr. M N Larma raised the question in the parliament, if everybody is treated, as Bangali then what should be about indigenous people. The president at that time Sheikh Mujibur Rahman replied without thinking deeply "Tora Bangali Hoya Ja"(you should become Bangali). On the subsequent government of General Ziaur Rahman amended the constitution and wrote all citizen of Bangladesh will treat as Bangladeshi. As the citizen of Bangladesh it is also true but this identity also does not recognize the distinctiveness of them.

Tone Bleie explained the issue as, the homogenous cultural nationalist outlook of Sheikh Mujibur's first government made such demands unacceptable. The first Constitution of Bangladesh enshrined in its Article 9 one language, Bangali, and one Bengali nation as the very basis of the state. The Constitution also enshrined the principle of secularism (Article 12) while accommodating free practice of religions and the script-based religions of the minorities were mentioned. Paradoxically, the very inclusion of Bangali nationalism as the core of the Constitution secured cultural and political hegemony, which was unacceptable to the CHT leadership. Also Article 28(1) of the Constitution, with its provisions of the so-called negative state obligation not to discriminate against any citizen of groups on the basis of religion,

race, caste, sex or place of birth, contradicts Article 9, with its exclusively Bengali nationalist principle.¹⁹

Ms. Bleie also explained that the transformation of nationalism by General Zia from 'Bengali' to 'Bangladeshi' with emphasis on 'islamization' specifically ignored the political sensitivity on indigenous people's issue. She more added that, As we join in marking this year's (2008) UN-day for indigenous People, we note with great concern the recent deterioration of the human rights situation under the current military-led caretaker government. The recent turn in Bangladeshi national politics, is expression of a systemic malaise in the key state bearing institutions, which makes for bleak prospect for any gradual and sustained improvement of the human rights of the *adibashis* in the country. She explained how 'Cultural Nationalism' formed the political culture in a key formative period for these state-bearing institutions.²⁰

Often some people were trying to argue that, it has been mentioned about the indigenous people in the Constitution on article 28(4), 29(3, ka) as 'backward section of people'. Many persons were trying to interpret the constitution in such way. If we accept this logic, then it will raise the question about the term of 'backwardness'. In the human rights perspective, the terms of 'backwardness' gives us a discriminatory perception and also raise the question what the basis of backwardness', what is the criteria of backwardness, why would treat as backward, who will be the judge to measure of backwardness. The term of "backwardness" itself is a discriminatory word. On the other hand there is not recognising about the existence of the indigenous people in the constitution of Bangladesh at all.

The lead author of the Constitution of Bangladesh Kamal Hossain personally agreed many times that the issue of indigenous people did not get specific importance at that period. He also suggested incorporating their recognition as the Indigenous people in the constitution in clause number 29.²¹

Indigenous people are demanding constitutional recognition since long. They believe that, without constitutional recognition government will not take any affirmative action as progressive realization to solve their problems. On the other hand may inspire to violate their rights frequently. But no government has shown minimum interest to take any step to include them in the constitution in any way. Even any government never formulated any policy paper or any official declaration to recognise them. Rather in many cases the government representatives or spokesmen

¹⁹ "Emerging issues of Indigenous Peoples Rights in Bangladesh: why application of international law remains an uphill struggle"- Professor Tone Bleie, University of Tromso, Norway

²⁰ "Emerging issues of Indigenous Peoples Rights in Bangladesh: why application of international law remains an uphill struggle"- Tone Bleie, University of Tromso, Norway

²¹ "Biponno Adibashi Jibon O Somaj", Mithushilak Murmu, Kashbon Prokashani, Dhaka

are decelerating that there are no indigenous people in Bangladesh. Generally in some administrative documents they have been mentioned as 'Upojati or Tribal'.

Mentionable that, an online survey shows that 70.09% people supports giving the recognition of the Indigenous people in the Constitution or any other way conducted by daily Sangbad.²²

4.2 Meaningful Participation of Indigenous people are missing in development planning

The indigenous people of Bangladesh have no meaningful participation in development planning, decision-making bodies and overall development agenda as well. In the last parliament there were four members elected who belonged to different indigenous communities. Amongst them 3 were from the CHT and one from the Mymensingh-1 constituency. All of them were elected on behalf of two major parties Awami League and BNP. But they have no way to contribute individually in the parliament at all as well as no power of voting against the party decision. So it was not possible to influence the policy matters by them.

A ministry has been formed namely "Ministry of Chittagong Hill Tract" as the condition of peace treaty and the ministry is implementing some programme in the CHT. But there are many allegations to make complicated the issues of indigenous people instead of real inclusion. The ministry has no individual power to take any decision because it has been working under the Prime Minister/chief advisor's office always. The secretaries are trying to overrule the ministers. On the other hand government officials who have got posting in this ministry, feel it is a punishment posting to them. So they are not so owned the issues seriously that have to be addressed by this ministry. One of the major criticisms of this ministry is that, the ministry is working only for the three district of CHT. But more than 32 indigenous communities are living in the plain land area who are excluded from getting the benefit of this ministry. It is also discriminations among the indigenous communities of Bangladesh. In the PRSP documents "unlocking the potentials" there is mentioned the issue of the indigenous people but in the action plan the issue is missing.

In every tier of the government and local governments bodies' inclusion manner is remarkably ignored. One sort of biasness and lack of sensitization make the non-Muslim people generally excluded from state services and decision-making committees. Most significant issue is that, when government took decision in any development project or programme in the *Adibashi* living area, there is no discussion with them on whether it will bring any positive or negative benefit. Mostly the

²² The Daily Sangbad, July 13, 2007

decision has taken from the top level of administrations. Sometimes the local administration calls the *adibashi* leaders and impose the central decision.

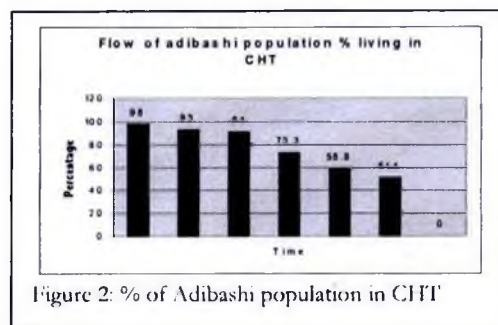
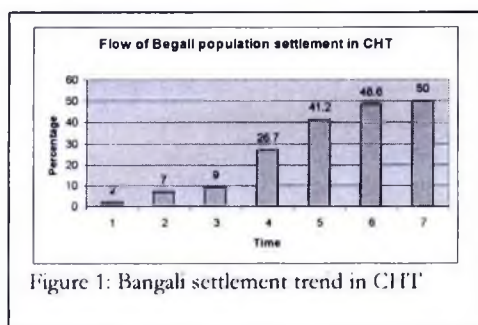
4.3 Peace treaty not completely implemented

After long battle, the government has signed the peace treaty with the *Parbyatta Chattagram Janasonghati Samity* (PCJS) on 1997. By signing this treaty some important steps have been taken by the government when Awami league was in power. But the indigenous leaders accused that, the Awami League government also walked slowly to implement the peace treaty completely in their regime. And the BNP government has not taken any positive step to implement the peace treaty rather they created some obstacle to go ahead through the treaty. Still the treaty has not been implemented completely. The raised issues have not been solved yet. Mr. Santu Larma said about this issue "Indigenous people in the CHT are now under threat form large-scale displacement due to land grabbing, setting up of park and social forestation. The situation might worsen further due to the absence of constitutional recognition of indigenous people's identity and rights, lack of effective policy, non-implementation of the CHT treaty and non-functioning of the CHT land commission"²³

Comparative Scenario of Population transfer in CHT patronizing by the government

Year	Total Population	Proportion of Paharis		Proportion of Banglai	
		Population	%	Population	%
1872	63054	61957	98	1097	2
1901	124762	116029	93	8733	7
1951	287688	261538	91	26150	9
1974	508199	372526	73.3	135673	26.7
1981	751692	442362	58.8	309330	41.2
1991	974445	501144	51.4	473301	48.6
2001	1342740		<50%		>50%

Data Source: Rights and governance in Chittagong hill tracks, Proshanta Tripura, biyearly Conference report (Published) of MJF 2004. Figure prepared by the author.



²³ The Daily Star, August 7, 2008

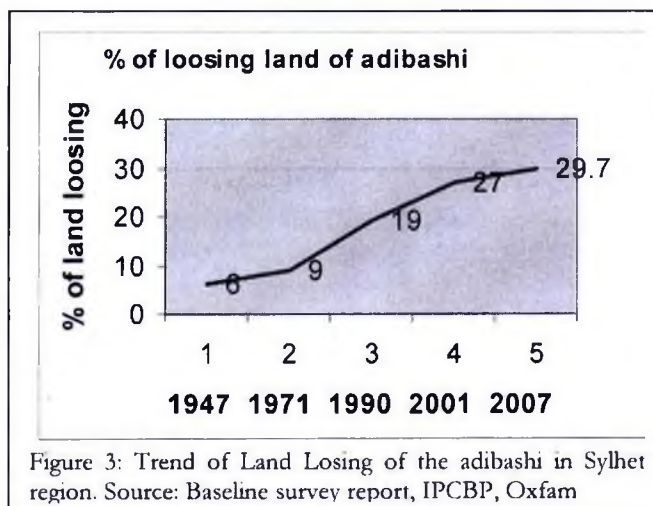
Recently the members of International Commission on CHT visited the area to observe the present situation. The joint chairman of the commission Lord Evbary says;²⁴ the problem of CHT is multidimensional. There is deep reservation among the *adibashi* people about army existence and land issues. Eleven years ago the peace treaty has been signed but it has not been implemented completely. Land related problem is the major issue in there. It has been clearly mentioned in the treaty that no eviction is allowed of any *adibashi* from their homestead, but this has been occurred frequently by the cooperation of some individuals and agencies.

He also said more 'we have talked with the army chief and political parties to understand their views. Jamat told, they do not think to give any special opportunity or affirmative action to the *adibashi* community'. So apparently it may see that the problem of CHT has been solved but in fact there is achieved a little.

4.4 No meaningful initiative to solve the Land issue

Land is the mother of the *adibashi* communities. They think of themselves as son of land and forest because they were completely dependent on land. Without land they have no existence to survive at all. But their land related problems could not be solved by the government significantly. In CHT there is formed a land commission but it has not been functioning to reach the conclusion on land issue in the CHT. For the plain land *Adibashi*, there is not formed any land commission at all. The government does not agree on their customary laws, ancestral land rights, inheritance laws or *dokhli satto*. The *Adibashi* belief is that, they are son of soil, they are living century after century in their lands so why need the land documents? On the other hand many of them are not literate, not aware about the registration of lands, land related documents or record collection so they are losing their lands. In many cases government departments listed their land as *khash* land or concerning departments land.

Therefore the land of the indigenous people are being grabbed by the mainstream people, eviction is continuing by some departments of government, East Bengal



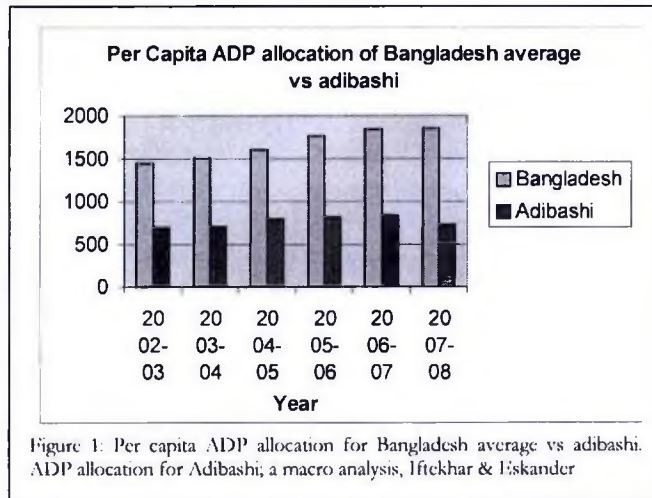
²⁴ The daily Jugantor, 10 September 2008

tenancy act not applied, customary law, ancestral ownership not recognized, land disposition is continuing and increasing day by day. Indigenous leader Santu Larma says, "The indigenous people are in a bad condition as they are increasingly falling victims to land grabbing in Bangladesh"²⁵.

In many cases the conflicts emerged and continuing with the forest department and the *Adibashi* reached extreme that some indigenous leaders had to sacrifice their life. The *Adibashi* are also harassed in many ways for the land issues by the law enforcing agencies and other departments indeed. In the base line survey of "*Anograsar Gonounnayan Prokalpo*" of international development organisation Oxfam shows the trend of losing land of the indigenous people of Bangladesh. In the figure no 3 it shows that, the trend of losing land of the *Adibashi* people of Sylhet, Mulovibazar area is increasing over the time. On 1947 the percentage of land losing 6%, it gone up in 1971 as 9%, then on 1990 it gone up 10%, on 2001 it increased more as 27% and in 2007 the percentage of losing land reached in 29%. Mr. Larma added more, The land rights of the indigenous people are yet to be recognized in Modhupur where the government is implementing social forestation project forcibly while the land of the indigenous people in North Bengal are still shown as *khash* land. The land grabber's connivance with the administration is ousting indigenous people from their land. As per UN declaration Indigenous people cannot be ousted from their lands.²⁶

4.5 Discriminatory allocation in ADP

Annual Development Programme (ADP) is the main development initiative by the government of any country. As adivasis are specially disadvantaged and marginalized community in terms of social, political & economic rights & achievements, their mainstreaming and/or right preservation should be targeted by GoB programmes. Mitigation of economic inequality between adivasis and non-adivasis should hence become a central issue of ADP allocation.²⁷



²⁵ The Daily Star, August 7, 2008

²⁶ The Daily Star, August 7, 2008

²⁷ ADP allocation for Adibashis; A macro analysis, Iftexhar Hossain and Shahid uddin Eskandar 2008, Department of Economics, University of Dhaka

Discriminatory allocation towards the indigenous people of plain land and more profound if we consider the per capita ADP allocation for overall Bangladesh, all indigenous people of plain and hill tracks. In FY2007-08, per capita ADP allocation for overall Bangladesh was BDT 1846.97 and at the same time 88.17 BDT allocated for the plain land indigenous people.²⁸

The study shows that, no allocation directly for the education, empowerment of indigenous women and to increase market power of *adibahsi*. The block allocations for plain land *Adibashi* were very insignificant. In the ADP documents plain land *Adibashi* were not mentioned as *adibashi*. They were treated as people living in the special area other than hill tracts. On the other hand total allocation for ministry of CHT 23% but the actual recipient level in the indigenous people living area will get less than before. Development assistance to the three hill district was 25 crore taka less in the budget of 2008-09. The allocation was 105 crore in the budget of 2007-08 fiscal year.²⁹ Summary of the findings are³⁰

- They were given a bloc allocation each year amount of which was highly insignificant.
- The allocation in the Chittagong Hill Tract areas was significant. However, allocation for the Adivasis living in the CHT was marginal.
- No project was found targeting the improvement of quality and sensitivity of primary education in the Adivasi populated areas
No project was found targeting the empowerment of Adivasi women considering their needs, culture, and professional patterns.
- Similarly government had no commitment to increase the market access of the Adivasis through ADPS.
- Most importantly, projects targeting Adivasis were so insignificant that they could not be categorized as Adivasi focused and Adivasi sensitive.

4.6 Education status is below than the national average

The overall education status is not creating any hope for the *Adibashi* communities all over the country with few exceptions. Due to language barrier, social exclusion, poverty, lack of *Adibashi* friendly environment in the education institutions declined the net enrolment of the *Adibashi* community. Although they are getting admission in the primary level, but over the time they are dropping out from the subsequent stages of the education.

²⁸ ADP allocation for Adibashis; A macro analysis, Iftekhar Hossain and Shahid uddin Eskandar 2008, Department of Economics, University of Dhaka

²⁹ Report of BD News, 10.06.08

³⁰ ADP allocation for Adibashis; A macro analysis, Iftekhar Hossain and Shahid uddin Eskandar 2008, Department of Economics, University of Dh

Different study shows that, the access to education of the *Adibashi* has been doubled in 1990s in comparison to 1980s, but still it is far away than the desired level. A study of 'Campaign for popular education' shows that³¹ among the *Adibashis*, 53.36% of 6-10 years children are from CHT. Overall net enrolment rate is 44.49% among the *Adibashi* of plain land which far behind the national rate of around 87%. The national enrolment rate of the *Adibashi* is still below than the national average.

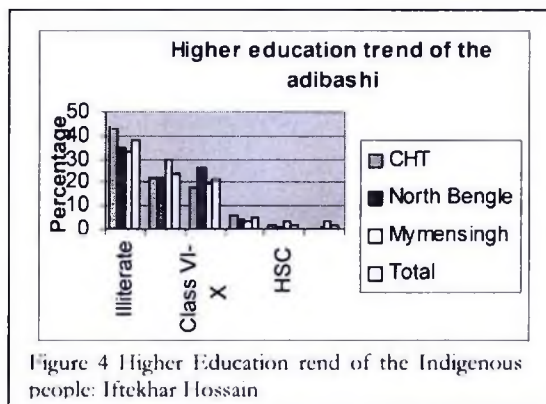


Figure 4 Higher Education trend of the Indigenous people: Iftekhar Hossain

One of the major demands of the *Adibashi* community in Bangladesh is access to education in their mother language or access in bilingual curriculum. At least in the *Adibashi* concentrated area it is possible to introduce the issue. But no significant progress has been found till now. Government has committed to include the issue in the Primary Education Development Plan (PEDP) II but still not progress could be mention in this section.

4.7 Harassment and non cooperation by government departments

Indigenous people are frequently harassed by different government officials. Especially for land related issues and access to state services. Generally they are neglected as whole. In some cases the government officials are not cooperating with them. Most of the allegation goes against land department, forest department and law enforcing agencies. The local level land department's officials know that the *adibashi* people are minority so they are weak and simultaneously they are not so educated and aware about the legal procedure of land issue. So it is easier to deprive them. Most of the land loss is by the cooperation of the land department officials. In Many cases the government officials do not take land tax from the *adibashi* people. Sulekha Mrong, one *adibashi* women leader of Modhupur, Tangail told me in a interview, when they went to the AC land office to pay their land tax, the Tahashilder (government official of land department) does not took it. He does not provide the government form and also not tell them the copy of land record and numbers of the documents. They had tried many times but the government officials returned themselves by scold. She also told, it is intentionally doing that one-day they will grab the land. Many *adibashi* families lost their land through way.³²

³¹ Sakhorota Bulletin (Literacy bulletin), august 2003, Campaign for Popular Education, Dhaka

³² The information taken from the interview with indigenous women leader Ms Sulwkha Mrong of Modhupur, Tangail on the part of this study

On the other hand forest department is always disturbing the *adibashi* people. Most of the *adibashi* are dependent on the natural forest. But forest officials illegally sold trees and filed cases against *adibashi* people. They grabbed their land and planted trees. In Modhupur, more than 5000 forest cases have been filed against *adibashi* people. Still at least 1000 cases are running. The forest department filed several cases to one person. Ms Malati Nokrek is a teacher of Beribaid village of Modhupur. The forest department filed 3 cases against her for wood theft. The forest guard killed Piren Snal in broad daylight to protest against the brick wall around the Modhupur national forest. A student of class ten, Utpal Nokrek became disabled forever by the shooting of forest guards.

4.8 Customary law, inheritance law, ancestral land ownership not recognised.

The customary laws, inheritance laws and ancestral land ownership are the distinctive characteristics of the *adibashi* communities that have been expressed the identity and existence of them. Although there is many differences of the customary laws among the different indigenous communities. But in general, it demanded in the issue of land rights. There is no government document that has recognised these distinctive characteristics. The *adibashi* believed that they are son of soil and nature. From the century after century back they clean the jangle and made the residence and started cultivation. By the inheritance chronology they were living on that land. They didn't need to make legal documents in many cases. But different government department evicted from that land. Mainstream people also grabbed frequently. Although it is clearly mentioned in the ILO convention 107 that it cannot be evicted any indigenous people from their ancestral land.

In the British period, there was declared five thanas of the greater Mymensingh will be treat as 'Partially Excluded Area'³³. That mean these area will be excluded of general governance. This area will govern through the customary laws, customs and institutions of the indigenous people.

4.9 Government taking *adibashi* unfriendly and so-called development project

Government taking some development projects that are seriously affected the life *adibashi* people. The echo park project is one of them. Government was plan to establish echo park among the *adibashi* area of Modhupur and Kulaura. That two area are *adibashi* existing area. To establish the echo park government was taking plan to evicted the *adibashi* people from their land as well as it were badly affected the *adibashi* life and livelihood. Former secretary and present advisor of the

³³ R.W. Bastine-Final Report of the Settlement Operation in Five Thanas of the Partially Excluded Area of Mymensingh 1038-42, Government of East Bengal, Directorate of Land Records and Surveys, East Bengal, East Bengal Government Press 1954, Dacca

caretaker government MM Shawkat Ali raised a question about the issue such as What, however, is known is the fact that several thousand Garos living in and around the Madhupur forest did not like this approach to development which threatened their livelihood opportunities and the right of free movement. It is reported that the brutal police action of January 4, 2004 led to the death of Piren Snal, and 25 tribesmen and women were injured. A protest rally was held and the speakers condemned the police action on unarmed indigenous people. Two members of Parliament from Tangail district visited the place of occurrence.³⁴

He added more as, in the instant case, the State supported development programme does not defend human rights rather it promotes insecurity, that too of a disadvantaged and marginal ethnic community. The Garos, who have been living in Madhupur for generations, ought to have been involved in making the so-called Eco Park a success. Finally the Government has been compelled to cancel the project by the strong movement of the adibashi people.

Social forest is another harmful project for the environment as well as the adibashi people. Because they are depended to the nature. Many of them were collecting food from the forest. But forest department destroy the natural forest and make wood lot garden in the name of social forest. Under this project they planted all the environment unfriendly trees. Those are also destroying the environment. Simultaneously the livelihood of the adibashi people has affected severely.

To establish the army camp, cantonment, military base and firing range mostly choose the area of adibashi people. In Modhupur, CHT and Sylhet there are several examples to evicted from the adibashi people from their homestead land and destroy their society indeed. Mr. Sanjeeb Drong said Many times indigenous peoples faced eviction from their homeland in the name of development project, building dams, Copra, protected areas, reserve forest and even establishing military base on their ancestral and community land.³⁵

4.10 Not found the Inclusive manner among the government mechanism

No positive message towards indigenous people circulated by the government apex body, not include their safety net programme. In the entire government planning it does not include the issue of the indigenous people as well as the minority people. Without few exceptions, there is not taking any affirmative action toward their upliftmen. The excluded attitude still exists amongst the mainstream as well as different government tier. Mr. Santu Larma said, Negative mentality towards Indigenous people. The government, political parties and bureaucrats have negative

³⁴ "Echo-park and ethics of Development" The Daily Star, January 9, 2004

³⁵ "Solidarity" an annual publication of BAF, 9th August 2006

mentality/conception about the indigenous people. It has to be removed.³⁶ The UN representative in Bangladesh Ms. Reneta Lock Desaliyen said, “it needed the political commitment to ensure the rights of the indigenous people. So it is necessary to change the mentality about indigenous people.”³⁷

4.11 Indigenous Language becoming extinct:

Most of the indigenous communities have their own language. Some have their alphabet too. But day-by-day these languages were becoming extinct. One study conducted by BRAC that, in Bangladesh 68 languages were practicing among the 73 ethnic groups, among these 4 languages have been extinct. Most of the numbers are gradually extinct. More than 31.9% does not think to study in their mother language among the ethnic groups. Dr. Muhammad Rafi was the lead researcher titled as “Small Ethnic Groups of Bangladesh; A mapping Exercise” shows that, nobody talks in the language of *Voipuri, Bangli, Kurmi and Rajbangshi* even in their daily household work. On the other hand the population of *Bagdi, Sadri, Pahari, Bedey* and like other 51 ethnic groups are so less, if there is not taken any effective initiative these languages will be extinct within short time. Dr. Rafi thinks, ignorance of the government and pressure of another culture this has happened. This pressure is too high among the indigenous people of the plain land than the hilly area. Many of them do not talk to fear to identify as minority. In some where the mothers do not teach their children their mother tongue, rather they think that it is better for our security to mix up with the mainstream nation.³⁸

4.12 State obligation versus indigenous people's rights

Although there is not mentioned specifically about the indigenous people in the constitution of Bangladesh, but the article 28, 29 ensure the equal rights of all citizens. These articles also expressed not to take any discriminatory measures at all. It means state is must obliged to ensure equal treatment for all citizens. But it is not happening. Rather often those who are in the power they made as an actor of violating rights of the indigenous people.

The government ratified the UDHR, CPR, ESCR and ILO convention 107. But still not taken any monitoring measure how it is apply these international instruments to ensure the rights of the indigenous people.

As the party state must be obliged to respect, protect and fulfil to the rights of the people. But it has frequently seen that, government doesn't respect economic social and cultural rights of the indigenous people. Not also protect them from the

³⁶ The Daily Prothom Alo, 20 February 2008

³⁷ The Daily Prothom Alo, 20 February 2008

³⁸ Small ethnic groups of Bangladesh; A mapping exercise, Dr. Muhammad Rafi, BRAC REED

discriminatory attitude and policy framing. Mostly government does not fulfil their rights without few exceptions.

When government does not recognise the existence of the indigenous people then they had to exclude from the entire development planning and state policy framework. It is also delivered the negative message to the entire government mechanism especially in lower level bureaucracy. Finally it creates negative impact to the life of indigenous people. The indigenous leaders also claim that, as the member state of United Nations Bangladesh doesn't observe the international indigenous day that declared by the United Nations despite of 2.5 million indigenous people exist here.

Chapter 5

5. Perceptions of the activist

The indigenous community leaders were often raise question about the political and bureaucratic sensitivity towards indigenous people. Their main allegation is the political leaders as well as the political parties institutionally are not sensitive towards indigenous people. On the other hand if the government will take any positive measure on political ground or international pressure, it has been squeezed and prohibited by the bureaucracy in execution level. This study considered the opinions of some selected representatives of the indigenous activist of Bangladesh.

The president of Bangladesh Adibashi Forum and Parbytta Chattagram Janasonghati Samity Mr. Jotirindra Brodhiprio Larma alias Santu Larma clearly expressed his views such as, oppression of the indigenous communities has continued under the present caretaker regime too. He referred to last year's custodial death of indigenous leaders Cholesh richil in Modhupur and numbers of arbitrary arrest of indigenous leaders in the Chittagong hill tracts. His allegation is that, who raised their voice for implementation of the CHT treaty including their land rights, he falls in to the false cases.

In light his analysis; at least 50 activists were arrested during the regime of present caretaker government who are involved in politics and social work. Many ethnic minorities were being ousted from their homestead by Bengali settler in the CHT and by influential quarters in the plain lands. The culture and heritage of the ethnic groups are on the verge of extinction due to the denial of their constitutional recognition and lack of proper policy for their development, and various forms of exploitations³⁹.

Another concern is that, Although Bangladesh is a member of the UN, the government neither observed the day at state level nor took any step to ensure the rights of the indigenous people as per the recommendations by eh UN or International communities. The rule over the years remained indifferent to our demands for autonomy and constitutional recognition. They never paid heed to the demands for ensuring indigenous peoples rights, implementing the CHT treaty and ending eviction of the indigenous peoples in the name of creating echo park and social forestation. Seven villages of indigenous people at Sajek in rabgamati were set ablaze on April 20 to rehabilitate outsiders. The fundamental aspects of the treaty are yet to be implementing due to lack of government initiative.⁴⁰

³⁹ The Daily New Age, August 7, 2008

⁴⁰ The Daily Star, August 7, 2008

During the period of accepting of the indigenous people's declaration in the general assemble of the united nation on 13 September 2007, Bangladesh was not voting in favor. The representative was silent in the session.⁴¹

Mr. Larma's view that, in many country of the world, various positive initiative has been take in favor of the adibashi during the decade of indigenous people. But there is not happened any qualitative progress in Bangladesh till now. Rather the adibashi are forcibly displaced from their land, violated their human rights, communal, political and economic suppression, torture and deception increased repeatedly against adibashi. So the existence of the adibashi in our country is threatened.⁴²

The Chakma circle chief and presently special assistant to chief advisor of the caretaker government Barrister Debashis Roy explained, Specific law is needed to protect the rights of the indigenous and minority peoples and save them from all kinds of repression. The human rights situation of the indigenous and minority people is not very well.⁴³ He said about the harassment of indigenous people by the forest department. Point to be thinking that where it has been filed the forest case more, the forest also destroyed more on that area. This indicated that, it is not possible to protect the forest through forest case. Earlier the forest department filled forest case against the indigenous people identified in voter list. But the there is no relation of the wood sealing with them. The old man, child or women from the indigenous community nobody get relief from this cases.⁴⁴

Sanjeeb Drong, secretary of the Bangladesh Adibashi Forum (here after BAF) attributes the pitiable situation of ethnic groups in Bangladesh to the political culture of the country. The population transfer, or more bluntly, land grabbing, occurred politically, he says. Even now, people with political backing go and trick the innocent members living in the hills into thinking their land does not really belong to them, and when cases are filed, obviously the Bangalis win because they have all the support, not to mention wealth and political backing. They believe in traditional land ownership, where the land we have lived and worked on for generations is ours. They don't need papers to prove it but this is how we lose out. The existence of the indigenous population of Bangladesh is not recognized, Sanjeeb Drong also emphasis. Mr. Drong believes the ethnic groups in Bangladesh are not given enough exposure. Most publicity regarding them is also negative. It is shocking, says Drong, "the horrible picture they paint in primary school text books of the "tribal" who eat red ants and snakes. People around the world eat many

⁴¹ The Prothom Alo, August 7, 2008

⁴² 'Solidarity', a annual publication of Bangladesh Adibashi Forum, August 9, 2007

⁴³ The Daily Star, August 19, 2008

⁴⁴ The Prothom Alo, July 10, 2008

things, but our way of life is put up in a negative way, trying to make us look small, of a lower culture.⁴⁵

International indigenous day declared and organized by United Nation and the indigenous organizations celebrate it from 1999 but till now government does not celebrate this day. This indicates the attitude and mentality of the government towards adibashi. No government either political or caretaker is not positive to ensure adibashi rights'.

We can mention that, the contribution of the indigenous people around the world such as many foods and medicine of in the world discovered by the adibashi. The adibashi's are first discovered the coffee, sugar, pulse, potato etc. More than 75% medicines are discovered by the indigenous knowledge. Penicillin, coniine, Digitalize etc medicine discovered by those herbal, that's first uses and discovered by the adibashi. This information not mine, United Nation published these information and saying the modern world and state could not adequate respect against it.⁴⁶

Mr. Drong added, it has clearly mentioned in the 1st clause of Covenant on Civil and political rights and Covenant of Economic, social and cultural right that, every community has the right of self-determination. This right determines the political dignity and work with freedom in economic, social and cultural aspect. In the 3rd clause of the declaration of Adibashi it has been mentioned. In the life of the Adibashi was example of self-determination in Bangladesh; eventually in the regime of British era or before that period the Adibashi was living with freedom. Many people became frightened to listen the issue of self-determination, but it is possible within the territory of any country. For that it is firstly needed the combine political commitment.⁴⁷

He explained an instance of violation of human rights and sensitivity such as, in the website of amnesty international, the history of indigenous leader Cholesh Richil killing case still publishing around the world. Anybody of the world can read the how brutally and with communal sentiment they killed by cruel torture indigenous leader cholesh richil. In the report amnesty mentioned the name joint force as well as the name of the senior army officer who lead the killing. If this report hamper the image of the government, then why the government officer will do it? The special Rappoteur of United Nation on human rights on indigenous affairs, Dr. Rod Flow Stefenhegen presents the case of cholesh killing. Irene Khan asked to the chief

⁴⁵ Kajalie Shehreen Islam and Srabonti Narmeen Ali, Cultural Diversity under Threat, The Daily Star Magazine.

⁴⁶ "Solidarity", an annual publication of BAF, 9th august 2007

⁴⁷ "Solidarity", an annual publication of BAF, 9th August 2005

advisor of caretaker government about Cholesh Richil killing case and the chief advisor told , they has taken step in this issue. But what sort of step they had taken; Mr. Chief Advisor did not reply it further.⁴⁸

Mr. Ajoy A Mree an indigenous activist told in an interview with the author that, we have to survive here to fight against forest department around the year. The forest department is harassing the indigenous communities in many ways. Government was not including us to take any development initiative either in our living area or other places. Such as, when 1962, first declare the national park in modhupur⁴⁹ they does not discussed with us. When 1982 government declare second time the national park in modhupur, then they does not discussed with us at all, rather issues the circular secretly. When the government established the Kakraid Agriculture Farm on 1957 then also not discussed with us. On 1977/78 Bangladesh air force established firing range in modhupur they don't discussed with us and forcibly displaced 29 adibashi families and destroy one third of the modhupur deep natural forest. Many people were lost their livelihood. On 1984 when the forest department surveyed the modhupur area we had apply, and show our land documents such as credentials survey record (CS record) but they does not consider it or arrange any hearing. They published the gazette as there self. Now the District forest officer Abu Hanif Patoary issued a letter that, the issue has been finalising by fruitful hearing with the Indigenous people. This is completely false statement. The adibashi peoples of Modhupur lost their land, shelter, livelihood and life through these government initiatives from the past. If we protest then the forest department filed the forest case against us. Still more than 1000 false forest case are continuing against the indigenous people. The forest department is horrible to us although adibashi people believe that forest is seems like their mother.. For instance; Forest department filled 65 false cases against one adibashi villager Kupi Sangma (45) of Pargacha village. Women also become the victim of false forest case. The forest department has been filled 3 false cases against a schoolteacher Ms Maloti Nokrek (55). Year after year we are bearing the harassment of the false case and we have to attend the court at Tangail court that is 60 kilometres away from our village. Hundreds of adibashi become beggar to face the forest case. These are creating by the government

⁴⁸ The Prothom Alo, February 6, 2008

⁴⁹ 'Modhupur' is an Upazilla of Tangail district. Earlier it was renowned forest of Bangladesh. Around the forest more than 25000 indigenous people living and they were mainly depended to the forest for their livelihood, life style, culture and traditions. The owner was the large area of forest was the king of Natore state during the British regime and the indigenous peoples living there century after century treat as ancestral land. The indigenous peoples were the tenure of the Natore state. On the Pakistan regime the forest department covered the area and gradually destroy the natural forest. The forest department also declared they are the owner of many indigenous people's homestead land. Forest department also trying to evict from their homestead land and from that time the conflict emerged with the indigenous peoples. In relation of the protest to unethical interference of forest department three indigenous leader skilled by the forest guard and army and more than 5000 false case has been filled against the indigenous people by forest officials.

officials. It is the organised conspiracy to abolish the indigenous people and the government policy makers also keep silence. What does it mean?

Mr. Mree added that, after changing the past government, there is no real meaningful change we feel. Through the pressure of civil society, donors, media the government sometimes include us now but it is some sort of ornamental. We could not say government become sensitise towards indigenous people at all. Recently the forest cases of 2004 again revive by the forest department. On February 25, 2008 the deputy commissioner of Tangail, Aktar Ali Sarkar directly threat to the adibashi leaders. He said in an open meeting, 'some identified adibashi leaders creates problems. He told, if the indigenous leaders will create any obstacle against of government initiative then we will take serious action. Mr. Mree said, who is going to protest the unethical step of forest department then he wil must be affected by false case. Two adibashi leaders Piren Snal and Cholesh Richil killed by the government forest official and army for their protesting. But still there is not ensure any minimum justice. Rather the army, forest department, police and local administration structurally organised to prohibit the justice of that killing. Through these instances, we can easily measure the level of sensitisation of the government.

I feel taking birth in a minority community is a sin, and it is more sin that I am an indigenous person in Bangladesh. We fought the language movement and the liberation war alongside with our begalli brother but they are now repressing us.⁵⁰ Veteran freedom fighter and indigenous Rakhain leader Mr. Wu Suye expressed his feeling about the sensitivity of the mainstream community towards them.

An indigenous leader of north Bengal, Gonesh Soren explained the issue, Government spokesmen often says, here is no indigenous peoples they are tribal who has here. The absence of this recognition and the pressure of bad governance, the situation of the indigenous people seems like outsider in their motherland. Government forest department is continuing to force displaced from their own land. They are illegally imposing forest case to the indigenous people. The police and administration ignored to the indigenous people because they are indigenous. The repeated aggressive attacks by the existing state mechanism; the ethnic groups are becoming marginalized. It is badly using the constitution, nationalism and religion to deprive the indigenous peoples.⁵¹

Public relation secretary of Parbytta Chattagram Janasonghati Somity, Mr. Mangal Kumar Chakma also mention, Bangladesh Government declared from the very

⁵⁰ 'The daily Star, August 19, 2008

⁵¹ 'Hul' a publication of Bangladesh Adibashi Adhikar Andolon on the occasion of 153rd anniversary of Santal Rebel day celebration, 30 June 2008)

beginning that' there is no indigenous peoples in Bangladesh, here is some tribal people. The reason behind this declaration is ultra Islamic and communal philosophy, aggressive nationalism and over all feudalism mentality.⁵²

⁵² "Solidarity" an annual publication of BAF, 9th August 2005

Chapter 6

6. Observation of the researchers

In Bangladesh many researchers were working with the issue of indigenous peoples. They were trying analyzed many crisis of the indigenous communities from different views. To explore the reason of marginalized of the indigenous communities in Bangladesh many of them mentioned lack of sensitivity. But it has not found the how it can measure it. In this article, some opinions of the scholars are trying to consider.

Rehman Sobhan tried to analyze the issue such as a member of the community of nations we are internationally obliged to recognise and protect the rights of our indigenous people to assert their distinctive identity through preserving their language and culture. Recognition of these rights of our indigenous population is particularly important because Bangladesh's own emergence as a sovereign nation was built upon our struggle to assert our distinctive national identity manifested through our struggle to establish our mother tongue and culture. To preserve their identity our indigenous peoples rights to a decent livelihood, built upon their right to their ancestral lands and to share in the benefits generated by the natural resources located and institutional and international arrangements.⁵³

Tone Bleie has conducted in-depth study about the indigenous peoples in Bangladesh. She has analyzed the ground realities in Bangladesh on perspective of nationalism and human rights from the historical background. Bangladesh has remained a state party to the early ILO convention 107, which been strongly criticized nationally and internationally, no least by indigenous organizations, other human rights grouping and international experts. Why did Bangladesh ratify convention 107 in the first place? And why have a large number of later governments of Bangladesh, be they civilian or military, democratically elected or authoritarian, chosen to refrain from committing their country to the improved Convention 169? Moreover, Bangladesh recently stated that it abstained from endorsing the landmark Declaration. How should this "lukewarm" attitude towards these international treaties be understood?⁵⁴

The newborn country's desire to become a respected member of the international community led it become a UN member state. One of the first agreements it ratified was the already mentioned ILO Convention 107. The Convention, with its assimilatory approach, defined tribal as less advanced, which fitted the basic outlook of Bengali nationalism very well, and possibly served to embolden the elected

⁵³ "Solidarity" an annual publication of BAF, 9th August, 2007

⁵⁴ "Emerging issues of Indigenous Peoples Rights in Bangladesh: why application of international law remains an uphill struggle"- Tone Bleie, Professor, University of Tromsø, Norway

leadership's conviction that assimilation of the tribal in the hills and plains was the only way forward.⁵⁵

Abul Barakat explained the issues such as, Bangladesh not only a just monolithic state. Here existing more than 1.2 % are small ethnic groups but unfortunately they have not constitutional recognition. It has not been recognize the land rights of the ethnic groups rather violated that have. The grabbing by the others is spreading up much more. The ration of land grabbing the more than the bengalee people. The 72% are land less among the Santal community. The situation is much horrible of the hilly people. In the last three decade the bengalee people migration is increased in the Chittagong Hill track and compare to the indigenous people. The hilly people lost their land and forest and some bengalee peoples grabbed by the cooperation of administration. Fifty years ago the ration of hilly people at CHT was 75% and now it is only 47%. The peace treaty has been signed but the process to established peace is weakening and the land commission is not active.

Syed Abul Maksud analysed the issues as, the character of our government is not attentive or suppressive to the weaken class of people. The indigenous people are first within the weaken class of people. There is no mentionable role of the state to their progress. This is not mean as development to establish the road or echo park in the adibashi populated areas.

This is not enough to mention in the constitution in favor of the back ward section of people. Firstly it is needed the commitment of the government. If there is the commitment then the government could not silent rather can take the affirmative action. That means the government can take special legislation. That will be the constitutional recognition. To ensure their ancestral and customary rights the constitutional protection is needed. Every citizen is equal in the view of constitution although there is some exception. So have to take the responsibility by the government and state.⁵⁶

Sadeka Halim expressed such as, right to life, property, food and security are fundamental rights guaranteed by the constitution of Bangladesh. Article 11 explicitly maintains that the state shall be democracy in which fundamental human rights and freedom and respect for the dignity and worth of the human person shall be guaranteed. Article 15 entrust the state with the responsibility to provide the basic necessities of life including food, clothing, shelter, education and medical care of its

⁵⁵ "Emerging issues of Indigenous Peoples Rights in Bangladesh :why application of international law remains an uphill struggle" - Tone Bleie, Professor, University of Tromso, Norway

⁵⁶ "Solidarity" an annual publication BAF, 9th August 2007

citizens. The right to work and social security is also guaranteed by the same provision. Article 19(1) ensures equality of opportunity to all its citizens; article 20(1) establishes work as a right and duty. Article 27 provides for equality before law and article 28(1) prohibits and forms of discrimination on grounds only of religion, race, caste, sex or place of birth. Article 41 stipulates freedom of religion and article 42 provides for the right to property.

Apart from the constitution, the state is also bound by numerous international instruments, more specially in the United Nations charter of 1945 (article 1 & 55), the universal declaration of human rights of 1948 (article 2) and the international Covenant of Civil and Political rights and economic social and cultural rights 1966 (article 2), International convention on the elimination of all form of racial discrimination of 1965 (article 1), convention on the Elimination of all form of Discrimination against women etc. to protect the human right of its citizens, yet human rights continue to be violated in general. These violations are more acute and widespread in the case of the most vulnerable sections of the society, which includes women and the minorities. The following discussion mainly put emphasis on violation of Adibashi women's various rights as citizen.⁵⁷

Mesbah Kamal thought, in sixties, in the name Kaptai Dam the most fertile land and main town of the indigenous people has been drown under the water. Ignoring the necessity and plight of the local people it has been emerged the frustration and dissatisfaction in the mind of the indigenous people. The state does not take any initiative to remove that dissatisfaction rather repeatedly took action against it. Simultaneously start military control. It pushed the armed battle for 24 years. Peace treaty has been signed but not implemented in major portion. Bengali settler pushed by the patronization of the government with bad political intention.⁵⁸

Most significant analysis shows by Amena Mohsin such as, Nationalism in Bangladesh both Bengali and Bangladeshi failed to integrate the ethnic minorities; while the Bangladeshi model created religious minority ties as well.⁵⁹

⁵⁷ "Solidarity" an annual publication of BAF, 9th August 2005, Mesbah Kamal is a researcher on indigenous issue and Professor of Department of History, University of Dhaka

⁵⁸ Souvenir of international indigenous day 2008, Bangladesh Association for Social Advancement

⁵⁹ "Diversity and Citizenship Bangladesh and Beyond" edited by Mesbah Kamal and Ishani Chakraborty. Amena Mohsin is a researcher and professor of Department of Public Administration, University of Dhaka

Chapter 7

The Policy makers how look the issue:

Former Foreign secretary of Bangladesh government Mr. Faruk Chowdhury thought, It has been raised the question, do we do appropriate behave to the religious minority? Doesn't they affected in economic, social, political an administrative harassment? Doesn't we confined writhing the mental limitation, backdated mentality in the era of globalization? Isn't it this against our state solidarity? Isn't a major obstacle to build a modern and progressive state? It cannot be disagreed inn the last three decade our achievement in this sector is for shame.⁶⁰

The advisor of present caretaker government Rasheda K Chowdgury remarks that, It is necessary to adequate publicity about the rights of the marginalized and indigenous peoples. On the other hand it also important the legal side. Another vital issue is to application of the laws. Finally the most important thing is that political commitment.⁶¹

Former secretary and present advisor of caretaker government AMM Shawkat Ali wrote, Our State Acquisition and Tenancy Act of 1950 does provide the identification in terms of protection of their land rights. Garos are among the total 22 communities classed as aboriginals. The law imposes restriction of alienation of lands by aboriginals. Alienation or transfer of rights of lands can only be made from one member of these communities to another aboriginal who is domiciled or permanently residing in Bangladesh.

During the pre-1971 period, in most of the districts there used to be a Special Officer in the office of the Deputy Commissioner to deal with issues of legal rights of the ethnic minorities. They appear to have gone out of existence. Some of the recent project related studies involving Participatory Need Assessment (PNA) Surveys have indicated the lack of security of the ethnic communities like Garos in terms of land rights.

It has been reported that the Garos 'are being evicted from their ancestral homes'. This, on the face of it, appears to be unlawful action of lawful authority. If we had a well-functioning system of enforcing land rights, the tragic event of Eco Park could be avoided.

One of the major elements of the policies is to ensure security and well being of the marginal ethnic groups such as Garos. We often hear such words as marginal ethnic groups but fall short of identifying them. The reference made in PRSP is to communities outside the Chittagong Hill Tract region. That does not carry us far enough.⁶²

⁶⁰ The Prothom Alo, June 30, 2008

⁶¹ The Prothom Alo, June 30, 2008

⁶² Echo-Park and Ethics in Development, The Daily Star, January 9, 2004

Chapter 8

Politicians view:

The president of Awami League and former Prime Minister Sheikh Hasina wrote in the message of indigenous day when she was the oppositions leader, The Adibashi were repressed in various way. In the name Echo Park it has been killed the indigenous people, evicted from their homestead land, destroyed their livelihood and lives, culture is becoming extinct. Civilization cannot progress this way.⁶³ Sheikh Hasina also took a big step to settle the arms revelation at CHT and finally has signed the treaty. But the indigenous leaders alleged to her regime, the government go slow to implementing the treaty. It is indicating to goes the government reluctant mood.

The presidium member of Jatia Party and former member of the parliament Mr. GM Kader mentioned, The indigenous people of Bangladesh were facing displacing and driven away from their ancestral homelands and are fighting for their land and way of life. The indigenous leaders are expressing their concern that those are fading away due to lack of government patronisation and aggressive activities by section of local people. They complain that their right are often violated both by the government and by bengali. These can be protected only if the government shows more awareness and sensitivity to indigenous causes and comes forward and take step.⁶⁴

He added that, to facing discrimination due to their ethnicity, members of indigenous communities face hardship in education, employment and everyday life. Lands of the indigenous people have been encroachment upon and settled by new comers. With little legal protection, indigenous peoples can rarely recover the lands they traditionally occupied. Sometimes government agencies in the name of development work take over lands belonging to the indigenous people.

All over the north of Bangladesh indigenous peoples say they are concerned about what they call encroachment onto their traditional homeland by the bengali settler. As they are mostly marginalized, indigenous and tribal peoples lack clout in a national and even in most local government, with the limited exception of local government of Chgittagong hill district. Their interest and empowerment opportunities to improve their situation.

Most significant issue raised Mr. Kader, The newly elected Australian prime minister recently apologized to the indigenous people of Australia. Prime minister Kevin Rudd told parliament: "We apologies for the laws and policies of successive

⁶³ "Biponno Adibashi Jibon o Somaj, Mithushilak Murmu, Kashbon Prokashani, Dhaka

⁶⁴ The Daily Star July 17, 2008

parliament and government that have inflicted profound grief, suffering and losses on these our fellow Australians.

Should we continue to neglect our fellow Bangladeshis, the indigenous people, and continue not doing what should be done for them, and be compelled by our conscience to offer similar apologies in future? Would asking for apology in future absolve our irresponsible acts today?⁶⁵

Presidium member of Awami League Mr. Amir Hossain Amu said, Rights of the indigenous people can be established if a secular, democratic and progressive government is formed. He added that, people of all faith, Hindu, Muslim, Buddhist, Christian including indigenous people all have sacrificed their lives in the War of Liberation, so all should enjoy equal rights.⁶⁶

Secretary general of Gono Forum, Mr. Pankaj Bhattacharia said, The next elected government should make apology to the indigenous people for the repression on them.⁶⁷ That means there is a lot of offence committed by the different governments in the past.

⁶⁵ The Daily Star, July 17, 2008

⁶⁶ The Daily Star, June 30, 2008

⁶⁷ The Daily Star, June 30, 2008

Chapter 9

Debate of Governance failure versus Lack of sensitivity

Bangladesh is a poor country no doubt. The economic and social indicators are still below than the requirement. Still 36% people are living under the poverty line (per day 1 dollar basis) and 86% (per day 2 dollar basis). The resource is scarce to manage the country's large numbers of people. But existing resources are not distributed equally. Among the government policy makers and the field level administration, nobody think about the inclusion manner. The minority, Adibashi, socially outcast groups are the part of the society, they are entitled as equal rights with the mainstream community, this reality could not perceived policy makers or implementing officials. The concept of 'diversity' among the citizens, culture, economy, social practice were ignored consciously in the entire society. But our history and heritage is to live together since century after century. The situations of the indigenous people are mentionable below than the average in the social and economic indicators. With out few exceptions the Adibashi are the poorest of the poor in Bangladesh.

Important think is that how the policy makers and implementers are look like the issue. How they addressing the problems of indigenous people. Does they solve their problems as respective manner or ignore or creating or supporting more problems? Does the government sensitise towards indigenous people but unable to solve their problems for resource constraint? We can analyse some specific cases to find the answer of the above question.

During the hydraulic power station establish in CHT, government does not discussed with the indigenous people. By setting up the captai dam, many indigenous people's shelter abolished and gone into under the water including the *Rajbari* of the chakma raja. The cultivated lands also gone under the water. The unrest emerged from that time in the CHT on basis of their existence. After independent, they don't have specific recognition in the constitution.

In many cases the government doe not ensure proper justice to indigenous people rather keep silent, ignore the issue and in many cases tried to hide the truth. For instance; the case of kidnapping Kolpana Chakma. In the day light the army forcibly picked the organising secretary of Kolpana Chakma on 1996 June 12 from Baghaichori. Some local people saw her in the local army camp on the subsequent days of her kidnapping. But from then she is still missing. More than 12 years has gone she did not come back. The government was formed a inquiry committee but nobody knows what has happened after that. The government still silent about this issue. People think, she was a leader with courage; she raised the issue of repression against the adibahsi. To stop her voice the case of missing created by the army and finally killed her. Mr. Sanjeeb Drong said, more than 12 years Kolpana Chakma is

missing but the government is mysteriously silent about the issue. Government does not take any initiative during last 12 years.⁶⁸ Drong raised the question, the people of Baghaichori areas passing their days with such uncertainty and fear, after 12 years does it change positively at all? Beyond the signing of peace treaty? I saw the sign of deep pain and frustration in the face of the indigenous people on there. They told many indigenous village, Jhum (hilly cultivation), crops land, garden even the graveyard also destroyed in the independent country. If anybody revolts then the result is seems like Kolpana Chakma.⁶⁹

Mr. Drong added, I saw in the way from Baghaichori to Ranagamati, many Bengalli settler villages by the side of the river. They are also poor and victims of the bad politics. This area was completely controlled by the indigenous people, gradually it gone out of their control.

The case of Piren Snal on Modhupur also another instance who killed by the forest guard in the open procession against the brick wall construction around the Modhupur natural forest. The family of Piren Snal did not get any justice till now. Last year another Adibashi leader Cholesh Richil killed in the army camp of Modhupur by brutally torture. Despite of many witness and adequate specific evidence government declared he has die in heart attack. Police submit final report as unnatural death in heart attack. By huge pressure in national and international level, government formed a judicial inquiry, but nobody know what did the inquiry commission found? Although the Chief Advisor of Care taker government told we are not so insensitive that you think about us, see we have formed a judicial inquiry commission to find the reality of Cholesh Richil⁷⁰.

The secretary general of Amnesty international, Ms. Irene Khan was directly talk with the chief advisor, he replied that "we are taking step, but which sort of step when Irene Khan asked again, then the chief advisor was silent."⁷¹

On the other hand the army personnel several times send the gift to the family of Choles Richil. On 9th august 2007, in the celebration of international Adibashi day's programme at upazilla auditorium of Modhupur, the army commander came with a troop with a big cake for the Adibashi to prove that they are sensitise towards

⁶⁸ The daily Prothom Alo 12 June 2008 "Paharer Maya Kolpana chakma ke ki vule gechi amra"

⁶⁹ The daily prothom alo, 12 june 2008, "Paharer Maya Kolpana chakma ke ki vule gechi amra"

⁷⁰ Late Mr. Bazlur Rahman (Ex Editor, Daily Sangbad) shared this dialogue refer to the chief advisors in the opinion sharing meeting with the editors of national news media at chief advisors office: Mr. Rahman was present as special guest in the seminar on "Role of Media on Adibashi"; 23 August 2007, National Press club, VIP lounge, Organised by Bangladesh Adibashi Odhikar Andolon).

⁷¹ Sanjeeb Drong, The Prothom Alo, 6 February 2008, "Human right, Adibashi and Amnesty International"

Adibashi.⁷² In the first death anniversary of Cholesh Richil army gave the cholesh family 250kg rice, 5-litre edible oil and 1000 taka. Before that the army gave the Choles wife sewing machine and 50 thousand taka. These all are indicating what? The local Adibashi leaders said” it is the exchange of the life of Cholesh? Or they are trying to stop our demand to getting proper justice?

Ministry of foreign affaires issued a letter to the ministry of Chittagong hill tract that, from now it can not be use the term as indigenous people, have to use the ‘tribal’.⁷³

In 1993 United Nation declare the “International Year for world Indigenous”. After the declaration, on 27 July 1993, the BNP Government Issue a latter to the secretary of foreign affairs (UN special section) to held up to celebration of international indigenous year. The government mentioned the reason as “there is not displaced or evicted any indigenous people in Bangladesh”.⁷⁴ Beside this, the all citizens are mainstream in Bangladesh so government does not recognize the indigenous year”. Still no government initiate to celebrate the UN declared indigenous day.

Bangladesh government signed the international biodiversity Convention on 5th June 1992 and 3rd May 2000 approved it. The article 8(J) mentioned the rights of indigenous knowledge, intellectual property, innovation and culture diversity of the indigenous people.

Government itself evicted from their hosted land to establish echo Park, Reserve forest, Dam, Social forest, Military base, Firing range, rubber plant. Where the place Adibashi was living government come to set up the new adventure either it will bring something meaningful for the country or not.

Before the election of 2001 BNP government committed in the election manifesto” BNP will ensure justice the killing of Advocate Kalidas Boral, social worker Alfred Soren and repression against the minority, but on the election BNP got majority and formed government and complete their term. But still the family of Alfred Soren did not get justice.

On 2004, the ADP allocation for the indigenous people was 18.30 taka per head where the national average was 1880 taka.

In the textbook of class five, introduce the indigenous people of Bangladesh as backward, inferior and something wild species published by the national curriculum

⁷² The daily Shomokal 10th August 2007

⁷³ The Daily Amar Desh, May 13, 2006

⁷⁴ Biponno Adibashi Jibon o Somaj, Mithushilak Murmu, Kashbon Prokashani, Dhaka

and textbook board. In the book it has introduced the indigenous people such as their favorite food is red ant, rat, frog, snake etc. It is creating a bad image about the indigenous people to the next generation that is completely intentionally.

In the BanglaPedia, it has been mentioned that, the indigenous Garo community were eating all except iron. Banglapedia is the encyclopedia of knowledge about Bangladesh, but this sort of false information makes them alien.

To some extent, this Article can be used by governments as an excuse for failing to ensure that appropriate standards have been achieved. However, governments that have seriously failed in areas such as indigenous health and the reduction of infant mortality cannot easily hide behind this Article. The Committee on Economic, Social and Cultural Rights has said that a State cannot take retrogressive measures - that is, measures taken by the State that result in decreasing the enjoyment of rights - unless it can fully justify them (this is contained in the Committee's General Comment No. 3, on Article 2[1] of the Covenant, and the nature of the obligations of States Parties under the Covenant). (Report of ESCR, OHCHR)

While the ICESCR clearly sets out economic, social and cultural rights, the international human rights system gives States more flexibility in ensuring that these rights are observed than it does with regard to civil and political rights. In Article 2(1), the Covenant recognizes that there may be limits to the availability of resources and that different countries have different capacities to provide services such as health care and education. At the same time, Article 2(1) establishes that each State Party commits itself "to take steps ... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant, including particularly the adoption of legislative measures." (Report escr, ohchr)

The Land Reform Ordinance (Ordinance X of 1984) expressly prohibits eviction from homestead land. The relevant provision reads as under:

"No eviction, etc. from homestead.--Any land used as a homestead by its owner in the rural area shall be exempted from all legal processes, including seizure, distress, attachment or sale by any officer, court or any other authority and the owner of such land shall not be divested or dispossessed of the land or evicted there from by any means: Provided that nothing in this section shall apply to the acquisition of such homestead under any law."⁷⁵

Bangladesh is a poor country. But it may not be wrong to say that, with few exceptions, Bangladesh's indigenous peoples are by and large the poorest among the poor. It cannot be denied that they face discrimination in education, employment,

⁷⁵ "Echo Park and the ethics of Development", AMM Shawkat Ali, The Daily Star, January 9, 2004

and civil rights. Decades of violence between indigenous-led insurgencies and government security forces in the Chittagong Hill track gave rise to social tension there which still persist despite the signing of a peace record nearly ten years ago. Allegation of serious human and civil rights abuse against members of indigenous communities surface every one and then.

Chapter 10

10.1 Narrative Summary:

On the above analysis, it has been briefly discussed about the dimension of deception of the indigenous people of Bangladesh. These dimensions of deprivations were created not only for the scarce resources and failure of the governance. Rather mostly it has been generated by bad political intention or personal interest related matters. Most of the governments have tried to serve their own purpose and use the indigenous people. But it has not revealed the government through sensitization towards them has taken mentionable step.

The indigenous peoples have not adequate recognition in Bangladesh either in the constitution or any other official documents of the Government. That is creating frustration to them as well as they are not considered in the development planning by the government. For this reason administration also got a negative message about them and its bad impact suffered to the communities.

In any development planning, decision-making stages or policy level there is no meaningful participation of the Indigenous peoples in Bangladesh. That is why mostly every planning have taken by excluded the their participation. In the last BNP regime there was a deputy minister recruited from the indigenous community for the ministry of CHT. But as he was deputy minister so he has not entitle to seat in the cabinet meeting that is the highest policy level forum of the government. Apparently it is seen there is a minister from the indigenous community but he has no scope to influence or sensitize the policy at all.

The indigenous leaders are frequently claim that, the peace treaty is not been implemented by any government. Awami league government was the initiator of the treaty, they had taken some major step to implement the treaty but not implement completely. The BNP government does not recognize the treaty, as Awami league was the initiator of the treaty. Some unsettle and uncompleted issues are there.

In light of the constitution, Government has to allocate all resources without discrimination to each other but we have seen the discriminatory allocation in the annual development programme.

Education status also bellows of the indigenous communities than the national average. And government has not been taken any mentionable step as affirmative action to minimize the gap. Only the tribal quota in higher education has some role to enroll of the indigenous student but the drop out rate is high in the primary and secondary level.

Harassment by the government officials such as forest department, land department, law enforcing agencies and military also accused much by the news paper reports as well as claim by the indigenous leaders. The materialistic and vested interest of the said officials also causes of it but no clear policy, recognition and positive message from the government side also active reasons behind these.

Customary laws and land rights are not recognize by the government. The main problems of the indigenous community are land. Mostly they were living in the

ancestral land. But frequently they are evicted from the homestead land by the land grabbers and government departments. No taken any effective step by the government to make the solution.

Government often had taken some so-called development project that has made more vulnerable and in many cases permanently destroys the *adibashi* life and livelihood. With pout consultation mostly the government has been imposed to their life that has creates some long-term bad impact.

The study found that most of the Government policies are bias to the mainstream. There is not seen any inclusion manner among the government projects, policies, committees. Theses are not targeting or addressing to the minority or indigenous communities. In fact the minority and the indigenous communities are the part of the society, they has right to include any sort of government initiatives, this attitude are missing in the government documents.

The international human rights instruments and the constitution mentioned the state obligations. But not act in light of the instruments. The government has ratified the ILO Convention 107 in 1972. But there is no reflection of this convention in the any law or policy matter. Professor Bleie thought, "The shifting forms of nationalism legitimated an assimilation policy, which also received a sort of approving 'rubber stamp' through ILO Convention107".

Still the government would not recognize or agree officially about the existence of the indigenous people in Bangladesh. Why is the government reluctant on this issue? The NGO affairs bureau of Bangladesh Government does not approve if the word '*adibashi*' or indigenous people is written. Generally the social welfare department does not give registration if any *adibashi* organizations want registration in name of *adibashi*. The government representatives present the statement in the UN forum as there are no indigenous people in Bangladesh. Government abstained to voting the UN declaration on indigenous people. Government took the projects in *adibashi* area without discussing with them and those projects evicted them from their homestead land, culture, and livelihood and over all distinctiveness. Government officials' always excluded indigenous people from any sort of planning at local level or policy level. The law-enforcing agencies are ignoring to getting their justice.

The government does not maintain the state obligation of either respect, protect and fulfillment of their rights. Not taking any mentionable measure of affirmative action as progressive realization. For the pressure of civil society and indigenous leaders government has included 2.5 pages brief about the indigenous people in the first PRSP but in the action matrix it has been ignored. Government does not show minimum respect to the indigenous people's demand as land commission, implementation of peace treaty, bilingual education, recognition, access to justice, stop harassment etc. These all instances are directly indicating the lack of sensitization among bureaucracy and political process.

The present army chief also has declared “there is no *adibashi* or Bangali in Bangladesh, all of we are Bangladeshi”.⁷⁶ The present caretaker government gave a space to incorporate an assistant in their cabinet. The special assistant of chief advisor is also talking about the deprivation against the indigenous people. This government took two step showing respect to the high court order towards *adibashi* such as judicial court established in the CHT and limited mobile phone network open in that area.

The special assistant to the chief advisor chakma circle chief Mr. Debashis Roy also mentioned, “I believe that more specific references to the situation of the indigenous people in the national constitution, than is now present, would help accelerate the process in the right direction”.⁷⁷

The obligation to respect, protect and fulfill is not seen in favor of the indigenous people. Rather the indigenous people of Bangladesh were frequently used by the bad political intentions.

Two affirmative actions are continuing to up-lift the indigenous people as quota in higher education and quota in civil service exam. Without few criticisms, these two affirmative actions also help the indigenous people to mainstreaming. But only few elites among the *adibashi* will get access to in these quotas.

A remark of the Law advisor of present caretaker government is indicating the not sensitization of the political government such as, “The caretaker government is trying to ensure that future political governments do not backtrack on establishing the rights of the country’s indigenous peoples”.⁷⁸ That means the political government does not sensitise to establish the rights of the indigenous peoples.

Why theses discrimination, oppression, not cooperation, harassment evictions are happening? Anisur Rahman explained this in such way, “It is the process of transformation into monolithic society instead of multicultural society”⁷⁹ But I think, there is not initiatives any long-term, well planned, structured planning or policy taken to build the society in Bangladesh by the any governments after the independence. But the from the historical period Bangladesh was existent in a diverse and multicultural environment. This image of the country is loosing over time for many reasons. The political leadership are not so sensitise to hold the

⁷⁶ Army Chief gave this speech during the visit at *adibashi* village of Modhupur on February 25, 2008 the news published on bdnews24.com

⁷⁷ “Solidarity” an annual publication of BAF, 9th August 2008

⁷⁸ The Daily Star, 10th August 2008

⁷⁹ “Ek Somaj Theke Bohu Somaj”, Bangladesh Economic Association Shamoyiki 2007, page 11, 12

multicultural philosophy. The above analysis has been pointed out how insensitive the bureaucracy as well as politicians towards indigenous communities. My research statement was “ Lack of sensitivity in the bureaucracy and politics does not ensure the rights of the indigenous peoples of Bangladesh”. The above analysis is supporting strongly in my arguments.

10.2 Recommendation:

- It is need to formulate an in-details policy for the indigenous communities of Bangladesh
- Should ensure effective reflection of all the human rights instruments in the government policy documents that's are relevant to the indigenous people
- Protect human rights violation of the indigenous peoples as well as ensuring justice
- Affirmative action need to enrolled in the mainstream education including bilingual primary education
- Effective initiative need to settle the land related problems
- Specific and justified allocation in the national budget for the adibashi
- Prior and effective discussion with the indigenous people to taken any development project on their areas
- Recognize the distinct existence of the indigenous peoples in the government documents

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